

REMARKS

The above Amendments and these Remarks are in reply to the Office Action mailed July 29, 2004. No fee is due for the addition of any new claims

Claims 1-41 were pending in the Application prior to the outstanding Office Action. In the Office Action, the Examiner rejected claims 1-41. The present Response amends Claims 1, 9, 14, 15, 18, 19, 23, 27, and 35, leaving for the Examiner's present consideration claims 1-41. Reconsideration of the rejections is respectfully requested.

I. Claim objections

1. Claims 1 and 35 are objected to because of the following informalities: Claims 1 and 35 recite the limitation, "the steps", which has insufficient antecedent basis in these claims.

Although the Applicants respectfully disagree that "the steps" is a limitation in the context of both claims, both claims 1 and 35 have been amended accordingly in order to expedite the prosecution.

2. Claim 14, 15, and 18 are objected to because of the following informalities: Claims 14, 15, and 18 recite the limitation, "the group", which has insufficient antecedent basis in these claims.

Claim 14, 15, and 18 have been amended accordingly.

II. Rejections under 35 U.S.C. §102(b)

Claims 1, 3, and 7 were rejected under 35 U.S.C. §102(b) as being anticipated by *Epler et al.* (U.S. Patent No. 6,026,156), hereinafter *Epler*.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Epler teaches method and apparatus of an enhanced calling waiting system, which will only respond when there is a second party attempting to reach a user by phone while the user is on a call with a first party (column 2, line 5-12, column 19, line 53-54). The user can not, according to *Epler*, actively initiate a new

communication with the second party while communicating with the first party. Furthermore, it is the call switch, not the user, that will determine how to respond to, and actually communicate with the second party based on the current status of the user (Figure 1 and 3, column 3, line 15-29). In contrast, the current application (U.S. Patent Application Publication No. US 2003/0138080) allows the user to actively initiate new communication(s) over a second or more channel(s) regardless of whether there is an incoming call or not, while still maintaining the communication with the first party (page 4, section 0058 and 0059). Claim 1 has been amended to emphasize that the method is for “a user”, not a switch, “to communicate” over the second channel, and the user is capable of “initiating a new communication, which is not necessarily responding to an incoming communication”. Since claims 3 and 7 depend on claim 1, *Epler* thus cannot anticipate claims 1, 3, and 7, and Applicants respectfully request that the rejection with respect to claims 1, 3, and 7 be withdrawn.

III. Rejections under 35 U.S.C. §103(a)

1. Claims 2-4 and 5-6 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Epler*, as applied to claim 1 above, in view of *Wellner et al.* (U.S. Patent No. 6,628,767), hereinafter *Wellner*.

As discussed above, *Epler* does not anticipate claim 1, which claims 2-4 and 5-6 depend on. *Wellner* teaches a system to allow a participant of a conference call to view a displayed list of speakers on a web browser and send a text (not audible as in claim 1) message to another participant. Unlike a conference call, the concurrent multi-channel communication claimed by the current invention provides the audible utterance over a selected channel only without sharing it with a concurrent communication over another channel. Therefore, neither *Epler* nor *Wellner* anticipates the concurrent multi-channel communication in claim 1. Since claims 2-4 and 5-6 that depend on claim 1 cannot be rendered obvious by *Epler* in view of *Wellner*, Applicants respectfully request that the rejection with respect to claims 2-4 and 5-6 be withdrawn.

3. Claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Epler*, as applied to claim 1 above, in view of *Logan* (U.S. Patent Application No. 2002/018167), hereinafter *Logan*.

As discussed above, *Epler* does not anticipate claim 1, which claim 8 depends on. *Logan* teaches the transmission of pre-recorded messages between two parties at a time, and the pre-recorded messages can be sent to different parties only at “different times”. On the other hand, the present application allows “people to converse with at least one party while concurrently relaying information to other parties on other channels” and “provides the ability for a participant to deal concurrently with multiple communication channels (e.g., two or more telephone calls)”. Therefore, neither *Epler* nor *Logan* anticipates the concurrent multi-channel communication in claim 1. Since claim 8 that depends on claim 1 cannot be rendered obvious by *Epler* in view of *Logan*, Applicants respectfully request that the rejection with respect to claim 8 be withdrawn.

4. Claims 9-10, 12, and 14-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Wellner* in view of *Epler*.

Claim 9 has been amended to indicate that “wherein the processor ~~provides~~ initiates a first control signal and a second control signal not necessarily in response to an incoming communication”. As discussed above, *Wellner* teaches a conference call system, which is different from the multi-channel communication system in this invention; *Epler* does not allow the user to actively initiate concurrent communications over multiple channels as claimed in claim 9. Therefore, neither *Wellner* nor *Epler* anticipates the concurrent multi-channel communication in claim 9. Since claims 10, 12, and 14-18 depend on claim 9, they cannot be rendered obvious by *Wellner* in view of *Epler*, and Applicants respectfully request that the rejection with respect to claims 9-10, 12, and 14-18 be withdrawn.

5. Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Wellner* in view of *Epler*, as applied to claim 9 above, and in further view of *Laursen et al.* (U.S. Patent Application No. US 2003/0002448), hereinafter *Laursen*.

Laursen teaches distributed conference bridge processing in Voice-over IP telephony. As discussed above, the current invention is distinguishable from conference calls, so *Laursen* cannot anticipate the concurrent multi-channel communication in claim 9. As discussed before, neither *Wellner* nor *Epler*

anticipates claim 9. Since claim 11 depend on claim 9, it cannot be rendered obvious by *Wellner* in view of *Epler*, and in further view of *Laursen*, and Applicants respectfully request that the rejection with respect to claims 11 be withdrawn.

6. Claim 13 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Wellner*, in view of *Epler*, as applied to claim 9 above, and in further view of *Freeland, et al.* (U.S. Patent Application Publication No. US 2003/0028380), hereinafter *Freeland*.

Freeland teaches a system for generating an audio message over a communication network that is at least partly in a voice representative of a character generally recognizable to a user. It does not, however, teach concurrent communications over multiple channels as claimed in claim 9. As discussed before, neither *Wellner* nor *Epler* anticipates claim 9. Since claim 13 depend on claim 9, it cannot be rendered obvious by *Wellner* in view of *Epler*, and in further view of *Freeland*, and Applicants respectfully request that the rejection with respect to claims 13 be withdrawn.

7. Claims 19-22 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Epler*, in view of *Danielson, et al.* (U.S. Patent No. 6,026,156), hereinafter *Danielson*.

Claim 19 has been amended to indicate that “processing device initiates to provides an audible utterance only over the channel” while communicating over the first channel. As previously discussed, this is different from *Epler* that does not allow the initiation of multi-channel communication in absence of an incoming call. Therefore, *Epler* can not anticipate the multi-channel communication system in claim 19.

Danielson teaches a hand-held data input system using a scanner, but it does not teach communicating concurrently over multiple channels. Therefore, neither *Epler* nor *Danielson* anticipates the concurrent communication over multiple channels claimed by claim 19. Since claims 20-22 depend on claim 19, claims 19-22 cannot be rendered obvious by *Epler* in view of *Danielson*, and Applicants respectfully request that the rejection with respect to claims 19-22 be withdrawn.

8. Claims 23 and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Wellner* in view of *Epler*.

Claim 23 have been modified to indicate that “the processor initiates to generates a first control signal responsive to selection of the channel” over which the audible utterance will be sent. As discussed above, neither *Wellner* nor *Epler* can initiate communication(s) over multiple channels concurrently, therefore, neither *Wellner* nor *Epler* can anticipate the multi-channel communication device in claim 23, which claim 25 depends upon. Since claims 23 and 25 cannot be rendered obvious by *Wellner* in view of *Epler*, Applicants respectfully request that the rejection with respect to claims 23 and 25 be withdrawn.

9. Claims 24 and 26 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Wellner* in view of *Epler*, as applied to claim 23 above, and in further view of *L'Esperance, et al.* (U.S. Patent Application Publication No. US2002/0055844), hereinafter *L'Esperance*.

L'Esperance discloses a handheld electronic device that has multiple application processes, it does not teach concurrent communication over multiple channels as claimed by claim 23. As discussed before, *Wellner* and *Epler* can not anticipate the multi-channel communication in claim 23 either. Since claims 24 and 26 depend on claim 23, claims 24 and 26 cannot be rendered obvious by *Wellner* in view of *Epler*, in further view of *L'Esperance*, and Applicants respectfully request that the rejection with respect to claims 24 and 26 be withdrawn.

10. Claims 27, 29, and 31-34 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Wellner* in view of *Epler*.

Claim 27 has been amended to indicate that the “selecting the first channel or the second channel and selecting a phrase representation not necessarily in response to an incoming communication”, which is not anticipated by either *Wellner* or *Epler* as previously discussed. Since claims 29, and 31-34 depend on claim 23, claims 27, 29, and 31-34 cannot be rendered obvious by *Wellner* in view of *Epler*, and Applicants respectfully request that the rejection with respect to claims 27, 29, and 31-34 be withdrawn.

11. Claims 28 and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Wellner* in view of *Epler*, as applied to claim 27 above, and further in view of *Castell, et al.* (U.S. Patent Application No. US 2002/0098831), hereinafter *Castell*.

Castell was filed in the United States on Jan. 18, 2002, while the current application was filed in U.S. on Dec. 18, 2001. Thus, *Castell* can not be used as a prior art against the current application. For the purpose of completeness however, its relevance with respect to the current application is still discussed here. *Castell* teaches a unified messaging system capable of delivering voice mail over the internet, which is different from the current invention on infrastructure supporting concurrent communication over multiple channels in real time as claimed in claim 27. As discussed before, *Wellner* and *Epler* can not anticipate the multi-channel communication infrastructure in claim 27 either. Since claims 28 and 30 depend on claim 27, claims 28 and 30 cannot be rendered obvious by *Wellner* in view of *Epler*, in further view of *Castell*, and Applicants respectfully request that the rejection with respect to claims 28 and 30 be withdrawn.

12. Claims 35, 37, and 39-41 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Castell* in view of *Epler*.

As discussed above, neither *Castell* nor *Epler* can anticipate the concurrent multi-channel communication by a user as claimed in claim 35. Since claims 37, and 39-41 depend on claim 35, claims 35, 37, and 39-41 cannot be rendered obvious by *Castell* in view of *Epler*, and Applicants respectfully request that the rejection with respect to claims 35, 37, and 39-41 be withdrawn.

13. Claim 36 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Castell* in view of *Epler*, as applied to claim 35 above, and in further view of *Laursen*.

As previously discussed, neither *Castell* nor *Epler* nor *Laursen* can anticipate the concurrent multi-channel communication method as claimed in claim 35. Since claim 36 depends on claim 35, claim 36 cannot be rendered obvious by *Castell* in view of *Epler*, in further view of *Laursen* and Applicants respectfully request that the rejection with respect to claim 36 be withdrawn.

14. Claim 38 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Castell* in view of *Epler*, as applied to claim 35 above, and in further view of *Wellner*.

As previously discussed, neither *Castell* nor *Epler* nor *Wellner* can anticipate the concurrent multi-channel communication method as claimed in claim 35. Since claim 38 depends on claim 35, claim 38 cannot be rendered obvious by *Castell* in view of *Epler*, in further view of *Wellner* and Applicants respectfully request that the rejection with respect to claim 38 be withdrawn.

IV. Conclusion

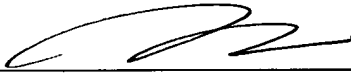
The references cited by the Examiner but not relied upon have been reviewed, but are not believed to render the claims unpatentable.

In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: 1/13/05

By: 
David Xue
Reg. No. 54,554

FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone: (415) 362-3800
Fax: (415) 362-2928
Customer No. 23910